



# **Open Meeting Law Training for the Parks and Recreation Commission**

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## *The Arizona Open Meeting Law (OML)*



**It is the public policy of this state that meetings of public bodies be conducted:**

- **openly**
- **and that notices and agendas be provided which contain information reasonably necessary to inform the public of the matters to be discussed.**

***A.R.S. § 38-431.09***

## *Who Does the Open Meeting Law Apply to?*



- **OML Applies to all Public Bodies**
- **Public Bodies include:**
  - **City Council**
  - **Boards, Commissions and Task Forces**
  - **Subcommittees or other committees appointed by a public body regardless of what they are called**

# What is a Meeting?



## A Meeting is:

- a gathering either in person or through technological devices
  - Includes:
    - any technology - e-mail, call, text, social media, etc.
    - a one-way electronic communication by one member sent to a quorum that proposes legal action
    - an exchange of electronic communications among a quorum discussing, deliberating or taking legal action
    - includes serial communications that eventually make their way to a quorum

**A.R.S. § 38-431(4)**

## *What is a Meeting? (continued)*



### A Meeting is (continued):

- a gathering either in person or through technological devices (see last slide)
- of a quorum of members of a public body
- where they discuss, propose or take legal action with respect to an action that may come before the Commission

*A.R.S. § 38-431(4)*

## *What is “Legal Action”?*



### **“Legal Action” =**

All discussions, deliberations, considerations, or consultations among a majority of the members of a public body regarding matters that may foreseeably require final action or a final decision by the governing body, constitute "legal action" and, therefore, must be conducted in a public meeting or executive session.

## *What is a “Deliberation”?*



**“Deliberation” =**

Any exchange of facts that relate to a matter which foreseeably might require some final action

## *Circumventing the Open Meeting Law*



- Public officials may not circumvent public discussion by splintering the quorum and having separate or serial discussions with a majority of the public body members.
- Public officials also are subject to civil penalties and costs for knowingly directing any staff member to communicate in violation of the Open Meeting Law.



## *OML and E-Mail*



- **Example E-mails from Staff:**
  - Can staff e-mail agenda information to the entire Commission?
  - Can staff forward a Commissioner's e-mail to entire Commission?
- **Example E-mails from Commissioners:**
  - Can a Commissioner send an e-mail to the entire Commission?
    - requesting an agenda item
    - providing factual information
  - Can a Commissioner reply to a staff e-mail?

## *Notice and Agenda Required*



- Agenda posted and available at least 24 hours before meeting.
  - Additional notice requirements for certain matters
  - City strives to give more advance notice than 24 hours, when possible
- Agenda must be posted on website.

*A.R.S. § 38-431.02(C)*

## *Notice and Agenda Contents*



**Notice and Agenda must include:**

- **“Notice and Agenda”**
- **Public Body’s Name**
- **Time and location of the meeting**
- **Information “reasonably necessary” to inform public of matters to be discussed or decided.**

**If not reasonably related to agenda item - cannot discuss**

## *Agenda Item on Current Events:*



### **Director/Commissioner Reports**

Members of a public body and/or staff may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.
2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

*A.R.S. § 38-431.02(K)*

# *Minutes*



**Minutes are required for every public meeting and must include:**

- Date, time, and place of meeting**
- Members of public body present and absent**
- General description of matters considered**

***A.R.S. § 38-431.01***

## *Minutes (continued)*



**Minutes also must include:**

- Accurate description of legal actions proposed, discussed or taken, including:**
  - a record of how each member voted,**
  - the names of those proposing each motion, and**
  - the names of people making statements or presenting material**

***A.R.S. § 38-431.01***

## *Violations, Enforcement, and Penalties*



- **Violations**
  - Any legal action transacted in violation of the open meeting law is null and void unless the action is later ratified. *A.R.S. § 38-431.05.*
- **Enforcement (*A.R.S. § 38-431.07*):**
  - Any person affected by an alleged violation, the Attorney General, or County Attorney can sue to require compliance with, or prevent violations of, the open meeting law
  - The Attorney General may sue an individual member of the public body for knowingly violating the open meeting law

## *Violations, Enforcement, and Penalties*



- **Penalties:**
  - No civil penalty for 1<sup>st</sup> violation
  - \$500 maximum civil penalty for 2<sup>nd</sup> violation
  - \$2,500 maximum civil penalty for 3<sup>rd</sup> and subsequent violations
    - The City is prohibited from paying the penalty on behalf of an individual commissioner
  - Possible removal of a public officer if determined to have acted with an intent to deprive the public of information

*A.R.S. § 38-431.07*



# Questions?